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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/986,975	11/13/2001	Shunji Imai	43890-552	6015
7590 11/18/2004				
MCDERMOTT, WILL & EMERY 600 13th Street, N.W. Washington, DC 20005-3096			EXAMINER PERRIN, JOSEPH L	
			ART UNIT 1746	PAPER NUMBER

DATE MAILED: 11/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/986,975

Applicant(s)

IMAI ET AL.

Examiner

Joseph L. Perrin, Ph.D.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above claim(s) 11-18 and 23-44 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 and 19-22 is/are rejected.
- 7) ☒ Claim(s) 21 and 22 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 November 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 5-29-02, 11-13-02.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election of Group I, claims 1-36 in the reply filed on 28 May 2004 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).
2. Applicant's election of Species A.I. and B.I., which cumulatively read on claims 1-10 and 19-22, in the reply filed on 25 October 2004 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).
3. Claims 11-18 & 23-36 and 37-44 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to nonelected species and invention, respectively, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 25 October 2004 and 28 May 2004, respectively.

### ***Claim Objections***

4. Claims 21-22 are objected to because they include reference characters which are not enclosed within parentheses.
5. Reference characters corresponding to elements recited in the detailed description of the drawings and used in conjunction with the recitation of the same

element or group of elements in the claims should be enclosed within parentheses so as to avoid confusion with other numbers or characters which may appear in the claims. See MPEP § 608.01(m).

6. 35 U.S.C. 112, first paragraph, requires the specification to be written in "full, clear, concise, and exact terms." The specification, including the claims, is replete with terms which are not clear, concise and exact. The specification should be revised carefully in order to comply with 35 U.S.C. 112, first paragraph. Examples of some unclear, inexact or verbose terms used in the specification are: In claims 2, 3, 19, the phrase "at a state..." is not clear as to whether this has structural meaning or is directed to intended use. Such language appears to be from a direct translation from a foreign document. It is suggested that applicant' uses language common to current U.S. practice, such as "wherein". However, it is noted that such language must result in a structural limitation to afford significant patentable weight in apparatus claims.

### ***Claim Rejections - 35 USC § 112***

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 4 & 8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

9. In claim 4, the limitation "rotating speed reducer" renders the claim indefinite because it is unclear what applicant intends. Does the speed reducer rotate or is the

rotating speed reduced? The claim is construed to read on any speed reducer for a rotary drive unit and the claims will be examined accordingly. However, clarification and correction are still required.

10. In claim 8, the limitation "wash assisting convex" is indefinite because the term "convex" is an adjective. Thus, what structural limitation is being claimed? The claim is construed as a longitudinal rib (in view of Figure 8) and the claims will be examined accordingly. However, clarification and correction are still required.

***Claim Rejections - 35 USC § 102***

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

12. Claims 1-5, 8 & 19 are rejected under 35 U.S.C. 102(b) as being anticipated by GB 683,909 to Lightbourne (cited by applicant). Re claims 1-3, Lightbourne discloses a washing apparatus including a base 10 with rotary drive unit (motor 52), washing tank 11 with opening 12, the tank including rotatable stirring blades 21 on an upper end of driving shaft 31 connecting the stirring blades and the motor via transfer joints (see Figures 3 & 6 and relative associated text, for instance, page 2, line 21 *et seq.*). Re claim 4, Lightbourne further discloses a speed reducer (see page 4, lines 99-109). Re claim 5, Lightbourne further discloses control means 49 to control rotation of the blades (see Figure 3 and page 3, lines 105-117). Re claim 8, Lightbourne further discloses

convex longitudinal fins 61 (see Figure 3 and page 3, lines 64-78). Re claim 19, Lightbourne further discloses base 10 having a guide 14 (see Figures 3 & 6 and page 2, lines 30-38) which seats tank 11.

13. Claims 1, 5-6, 8-10 & 19 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 2,156,541 to Misenhimer *et al.* (hereinafter "Misenhimer"). Re claim 1, Misenhimer discloses a washing apparatus with base 11/13 including rotary motor 16 and washing tank 14 including at least one blade 54 (see Figures 1 & 3 and relative associated text). Re claim 5, Misenhimer further discloses means for controlling rotation of the blade (motor cord 17, *i.e.* turning apparatus on/off, page 1, lines 21-25). Re claim 6, Misenhimer further discloses the tank having grips 59 (Figures 1, 3 & 5 and relative associated text). Re claim 8, Misenhimer further discloses at least one convex longitudinal portion 54 on the inner wall of the tank (Figures 1, 3, & 5 and relative associated text). Re claims 9-10, Misenhimer further discloses a cover 66 with a lock mechanism 68 (Figure 5 and relative associated text). Re claim 19, Misenhimer further discloses the base having a guide 13 at the top to seat tank 14 (Figures 1 & 3 and relative associated text).

14. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States

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only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

15. Claims 1-7, 9-10, are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,609,821 to Wulf *et al.* (hereinafter "Wulf"). Re claims 1 & 5, Wulf discloses an apparatus with motor driven base 32, tank 34 including stirring blades 112, and means 68 for controlling the blade (see, for instance, Figure 3 and relative associated text). Re claims 2-4, Wulf further discloses transfer joint 56 connecting the rotary drive base to a transfer joint (not shown) below rotatable blades 112 (Figure 3). Although Wulf does not explicitly show a rotatable shaft connecting the motor to joint 56, the position is taken that such a shaft inherently must exist in order to transfer rotary power from the motor base to joint 56. In addition, control system 68 reads on a "speed reducer" which controls rotational speeds. Re claims 6-7 & 9-10, Wulf further discloses the tank having a grip 70 (Figures 3 and 6), a water level line 78 (Figure 6), and a cover 82 with lock mechanism 84 (Figures 3 & 7). Re claims 19-20, Wulf further discloses a guide 54 on top of the base (Figures 3/15) and tank fixing portions on the tank (190/200) and base (48/50) to lock the tank to the base (Figures 2-3 and relative associated text). Re claim 21, Wulf further discloses sensors 66/67 connected to controller 224 for sensing/detecting presence of a top mounted tank and controlling rotary function of the base (Figure 4 & col. 13, lines 19-48). Re claim 22, Wulf further discloses outer periphery projections 190/200 which cover the transfer joints (Figure 2). It is noted that the term "washing" is considered intended use and given little patentable weight in the claimed structure. Wulf discloses the apparatus for use in "household appliances" and

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discloses using different "rotation speeds" and "mixing" (col. 1, lines 6-17). Accordingly, the apparatus of Wulf reads on applicant's claimed apparatus.

***Claim Rejections - 35 USC § 103***

16. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

17. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

18. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).



19. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lightbourne or Misenhimer in view of U.S. Patent No. 4,293,008 to Coleman. Recitation of Lightbourne and Misenhimer are repeated here from above. Although the washing tanks of Lightbourne and Misenhimer have a top edge which limits the amount of wash fluid capable of being added to the tank thereby creating a predetermined amount of wash fluid added to the washing tanks, neither reference explicitly discloses water level lines on the washing tanks. Coleman teaches that it is known to provide a container with level lines in order to add fluids to a container at predetermined levels (col. 1, lines 30-44 & col. 2, line 56 *et seq.*). Therefore, the position is taken that a person of ordinary skill in the art at the time the invention was made would have been motivated to modify the washing tanks of Lightbourne or Misenhimer with water level lines for the purpose of achieving predetermined water levels. It is further noted that using fluid level lines in containers has been well established in various arts, for instance, in swimming pools, whirlpools, measuring cups, cleaning solution dispensers, turkey fryers, etc.

### **Conclusion**

20. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: U.S. Patent Nos. 2,756,580 to Castner & 2,174,787 to Holland, which disclose rotary bottom driven washing machines; U.S. Patent No. 6,092,922 to Kett *et al.*, which discloses a rotary bottom driven stirring apparatus (substantially cumulative of Wulf cited above). It is noted that although Holland appears to read on

applicant's claimed invention, page 2 of the Holland patent appears to be missing from the patent database which discloses the motor detail.

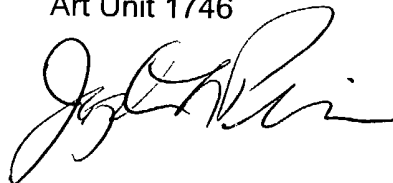
21. It is noted that the "X" references cited in the European Search Report, GB 1600984 to Hotpoint & JP 2000233094 to Naka Instruments, were not cited as 102 references since the Lightbourne reference was deemed as most comprehensive of the references in the Search Report.

22. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph L. Perrin, Ph.D. whose telephone number is (571)272-1305. The examiner can normally be reached on M-F 7:00-4:30, except alternate Fridays.

23. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael E. Barr can be reached on (571)272-1414. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

24. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Joseph L. Perrin, Ph.D.  
Examiner  
Art Unit 1746



jlp